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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Donald L. Denning and Nancy Sherer,

Plaintiff,

vs.

Veteran's Administration Health Care,

Defendant.

Case No. 2:22-cv-01747-CDS-BNW

**Plaintiffs' *Ex Parte* Motion to Extend the
Service Deadline Under Rule 4(m) of the
Federal Rules of Civil Procedure**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Plaintiffs move the Court for an order extending the deadline to serve Defendant in this matter. Plaintiffs request a 60-day extension from the filing of this motion to April 17, 2023. The Court has broad discretion to provide the brief extension requested, and Plaintiffs respectfully request that this Court grant its Motion to Extend the Service Deadline in this matter.

Respectfully submitted this 16th day of February 2023.

Confidence Legal—Attorneys at Law

/s/ Jordan M. Flake

Jordan Flake, Esq.

Attorney for Plaintiffs

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Memorandum of Points and Authorities

I. Introduction

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Plaintiffs move the Court for an order extending the deadline to serve the defendants in this matter. Plaintiffs request a 60-day extension to April 17, 2023. As set forth below, because Plaintiffs recently secured legal representation, there is good cause for the requested extension.

II. Statement of Facts and Procedural History

This case arises from a wrongful death action against the Veteran's Administration Healthcare. Plaintiffs have been, until now, unable to secure legal representation. Counsel for Plaintiffs was recently retained and has filed a Notice of Appearance. This Motion is intended to address the Notice Regarding Intention to Dismiss Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure which was filed on January 18, 2023.

Plaintiffs seek additional time to serve Defendant because, upon information and belief, Plaintiffs may need to amend the Complaint in order to add the Estate of Joseph Denning as a plaintiff. Plaintiffs request that the time to serve the Complaint be extended to April 17, 2023 in order to determine the correct parties and procedure for the relevant claims.

III. Points and Authorities

Generally, a plaintiff must serve defendants with summons within 90 days of the filing of the Complaint. Fed. R. Civ. P. 4(m). Rule 6(b) of the Federal Rules of Civil Procedure allows a party to seek an extension of any applicable deadline via motion and upon a showing of good cause for the extension. Thus, if the plaintiff shows good cause for an extension of the service deadline, "the court *must* extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m) (emphasis added).

Here, good cause exists because Plaintiffs were recently able to secure legal representation. Counsel for Plaintiffs needs time to review the facts and background of the claims, obtain authority to pursue the claim on behalf of the underlying decedent, Joseph Denning, possibly amend the Complaint, and serve the Defendant.

Defendant will not be prejudiced by the extension of time to April 17, 2023. Defendant is fully aware of the claims and Complaint and has been interacting with pro se Plaintiff Donald

1 Denning for several months and, has, upon information and belief, encouraged him to obtain
2 counsel.

3 **IV. Conclusion**

4 Based on the foregoing, this Court should grant Plaintiffs' *Ex Parte* Motion to Extend
5 the Service Deadline Under Rule 4(m) of the Federal Rules of Civil Procedure, provide a 60-
6 day extension of the service deadline from the date of this Motion, and require service to be
7 completed by April 17, 2023, and grant any such further relief to which the United States' may
8 be entitled.

9 Respectfully submitted this 16th day of February 2023.

10 Confidence Legal—Attorneys at Law

11 /s/ Jordan M. Flake

12 Jordan Flake, Esq.

13 Attorney for Plaintiffs

14 **ORDER**

15 **IT IS SO ORDERED**

16 **DATED:** 9:58 am, February 21, 2023

17 

18 **BRENDA WEKSLER**

19 **UNITED STATES MAGISTRATE JUDGE**